

DETAILED ACTION

This application, filed on 3/6/2007, is a national stage entry of PCT/US04/35619, filed on 10/27/2004.

Priority

A claim for priority has been made to Provisional Appl. 60/514/709, filed on 10/27/2003.

Claims 1-41 are pending. Based upon the pre-appeal conference decision of 9/8/2010, the previous rejection of claims 1-7, 9-12, and 14-18 under 35 USC 103(a) is withdrawn.

Claims 1-7, 9-12, and 14-18 are found to be free of the prior art. A statement of reasons for allowance is disclosed below. As discussed in a telephone discussion with the Applicants' attorney, Timothy Hagan, on 12/29/2010, previously withdrawn claims 8, 13, and 19-41 were rejoined with claims 1-7, 9-12, and 14-18. The restriction requirement is therefore withdrawn.

Claims 1-41 are allowed.

Statement of Reasons for Allowance

1. The following is an examiner's statement of reasons for allowance: there is no prior art which teaches or suggests the claimed controlled-release composition comprised of an oil-in-water emulsion comprising a silicone component, surfactant, and water, and an active agent, which is substantially free of lipophilic solvent, or the

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method of preparing the composition. The closest prior art is Kosal, US Patent 6,545,086 (of previous record). Kosal teaches a composition comprised of an oil-in-water emulsion comprised of a silicone component, a surfactant, and water, in addition to an active drug. However, Kosal teaches the inclusion of volatile silicon fluids, a variety of which are lipophilic. As there is no teaching or suggestion by Kosal to prepare the composition without the presence of the volatile silicon fluids, the claimed composition and method of preparing the composition are novel and non-obvious over the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 11/1/2010 was filed after the mailing date of the final action on 5/26/2010. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

Conclusion

3. Claims 1-41 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SARAH PIHONAK whose telephone number is (571)270-7710. The examiner can normally be reached on Monday-Thursday 8:00 AM - 6:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on (571)272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Shengjun Wang/
Primary Examiner, Art Unit 1627

S.P.